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CONSTITUTIONAL COURT (TSETS) OF MONGOLIA IS A GUARANTEE
OF THE PRINCIPLE OF DEMOCRACY.

Your Excellency Chairman,
Distinguished Presidents, Chairmen, and Chief Justices of the Constitutional Courts,
Ladies and Gentlemen,

First of all, on behalf of the esteemed Constitutional Court of Mongolia, I would like to extend my sincere wishes to the host of this conference, the Constitutional Court of Indonesia, and all distinguished speakers and guests.

I am pleased to express my confidence that this conference will be as fruitful and successful as the previous one.

Today I will briefly introduce you to Mongolia's experience in the principle of democracy which the Constitution of Mongolia guarantees and how it has been protected by the Constitutional Court of Mongolia.

The Constitution is not only the supreme law of countries but also the law that guides the future direction of the countries' development.

Democratic ideology is the main idea of the most developed and developing countries and basic guarantees of human rights and freedoms are already been recognized as the main trend of development.

In Mongolia on November 26, 1924, the first State Great Hural (Parliament) unanimously adopted the first Constitution of the People's Republic of Mongolia which stated "From now, the whole Mongolia will be People's republic with full rights, in which the whole power belongs to the people, the people exercise their supreme power through the

Great Hural (Parliament) of all the people and the Government elected by the latter.” Mongolia proclaimed the People’s Republic of Mongolia.

In the history of Mongolia, since adopting the first Constitution in 1924, Mongolia has adopted new Constitutions 3 times in 1940, 1960, and 1992.

1924, 1940, and 1960’s Constitutions have followed the guidance of socialist ideologies, whereas the 1992 Constitution aligned with liberal democratic ideas.

Above mentioned socialist Constitutions have some differences but all these socialist constitutions share such socialist features as a one-party rule, centralized government, party-centered development goals, emphasis on party programs and ideology, class consciousness, and the restriction of human rights.

Researchers noted that under 70 years’ socialist constitutions have independence and unprecedented social and cultural achievements in Mongolia, but on the other hand, the development of Mongolia's economy had fallen into a deadlock including the formation of a totalitarian regime.

The Law on Amendments to the Constitution of the People’s Republic of Mongolia which was adopted on May 10, 1990, has a very important role in the democratic process starting.

However, this law didn't completely repeal the Constitution of 1960, it was declared necessary conditions for the transition to democracy at the constitutional level.

Consequently, the fourth Constitution “democratic new Constitution” in Mongolian history was adopted on January 13, 1992.

For the first time, Mongolia enshrined in the constitution the ideas of human rights, democratic politics, pluralism, a free economy, separation of powers and checks and balances, local self-government, independent judicial power, and Constitutional review.

The Preamble of the Constitution proclaims that aspiring toward the supreme objective of building a humane, civil, and democratic society in the country.

Also, the second paragraph of the First Article Constitution of Mongolia stated that “The fundamental purpose of state activity is the ensurance of democracy, justice, freedom, equality, and national unity and respect of the law.”

Democracy is the manifestation of individual autonomy already embedded within the concept of human rights, especially with regard to social activity, political rights, and liberties.

Specifically, rights and freedoms such as voting, being elected, searching for information, petitioning, and complaining to government officials, associations, and demonstrations can be mentioned here.

Thus, in each chapter of the Constitution, many provisions are included that embody the content of the principle. For example, Article 3 of the Constitution of Mongolia says State power is vested in the people of Mongolia. The people exercise it through direct participation in state affairs and through representative bodies of state power elected by them. Illegal seizure of state power or attempted seizure is prohibited.

Furthermore, Article 16 (9) provides for the right to take part in the government of the country directly or through representative bodies. The right to elect and to be elected to State bodies... Article 16 (10) provides that on the basis of social and personal interests and opinions, citizens have the freedom of association in political parties or other voluntary organizations. ...No one should be discriminated against and persecuted due to his or her participation in a political party or a mass organization. Article 16 (11) stipulates that men and women enjoy equal rights in political, economic, social, and cultural fields as well as in marriage. Article 16 (12) stipulates that citizens have the right to submit a petition or a complaint to State bodies and officials. The State bodies and officials are obliged to respond to the petitions or complaints of citizens in conformity with the law. Article 16 (13) provides for the right to personal liberty and safety. No one may be searched, arrested, detained, persecuted, or restricted of liberty save in accordance with procedures and on grounds determined by law. No one may be subjected to torture, inhuman, cruel, or degrading treatment. Article 16 (16) stipulates that citizens have the freedom of thought, opinion, expression, speech, press, and peaceful assembly. Procedures for organizing demonstrations and other assemblies are determined by law. This way strengthened the values of democracy.

Globally, the role of the Constitutional Court in the formation of constitutionalism is very high, and it is not only a measure of the rule of the law of state authorities and officials, but also a guarantor of the formation and development of constitutionalism.

Consolidation of democracy does not only come from the codification of the constitution and laws but also from the designated institution of constitutional oversight. The highest form of such a mechanism in domestic law is the Constitutional Court.

The Mongolian Constitutional Court was established to constrain state actions and to build up a body of constitutional law based on democratic values and human rights protection.

Article 64 of the Constitution of Mongolia provides that the Mongolian Constitutional Court exercises supreme supervision over the implementation of the constitution, making judgments on the violation of its provisions, and resolving constitutional disputes. The Constitutional Court is the guarantee for the strict observance of the Constitution. About that The law of Mongolia on the Constitutional Court provides The Tsets shall exercise its supreme supervision over the implementation of the Constitution through rendering conclusions on the disputes specified in this Article and through settling disputes specified in the second clause of this Article.

For example, the Constitutional Court of Mongolia has jurisdiction over constitutional review. It resolves disputes about the constitutionality of laws, decrees, and other decisions by the State Great Hural (Parliament), and the President, as well as decisions of the Government, international treaties signed by Mongolia, national referendums, and decisions of the central election authority on the elections has the right to annul it if it is found to be inconsistent with the Constitution after reviewing the dispute.

Also, Constitutional Court of Mongolia has jurisdiction over whether high-ranking government officials, such as the President, Speaker of the State Great Hural (Parliament), members, Prime Minister, Cabinet member, Chief Justice of the Supreme Court, and State Prosecutor General (actions, decisions) have violated the Constitution, and to make a conclusion on their dismissal or recall.

The Constitution of 1992 which is followed today, is called the “Democratic Constitution” therefore, the jurisprudence of the Mongolian Constitutional Court greatly contributes to the construction of a democratic legal system directly and indirectly related to the strengthening of the principles of democracy.

Since its establishment, the Constitutional Court has made great achievements in declaring challenged acts unconstitutional, protecting democratic principles and human rights, and building a humane, civil, and democratic society.

As soon as the decision of the Constitutional Court of Mongolia is issued, it becomes effective and binding, so it has a direct impact on the lives and politics of citizens. Many important decisions were made that show that any government organization should conduct its activities in accordance with the principles of democracy.

In this way, it should be noted that the decisions made by the Constitutional Court of Mongolia are not only of special importance in preventing violations of the Constitution but also have a real impact on the development of democracy.

Finally, to conclude, the role of Constitutional Courts is important in protecting the Constitution, democratic values and principles, and human rights.

I am pleased to note that also, the Constitutional Court of Mongolia protects the values of the democratic Constitution and has a special influence on its development.

I wish you success in your future endeavors as well as in this conference.

Thank you for your attention.

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